

October 18, 2005

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Re: FCC 05-124

Dear Chairman Martin:

On behalf of over five million private school students and 27,000 private schools, we would like to thank you and the other members of the Commission for support of the E-Rate program or the Schools and Libraries Support Mechanism. Thanks to the E-Rate program, private schools are treated equitably in a program that provides telecommunications services, internet access, and internal networks to connect classrooms to the Internet. While over 90 percent of America's classrooms, both public and private, are connected to the Internet, this telecommunications original program is not complete. There are still schools serving children and some in the most disadvantaged sections of the population that need to be connected to the Internet or to have their connections kept up-to-date.

The Private School Technology Coalition (PSTC), and our members are supportive of ideas and proposals that will streamline and make the program more efficient. At this time, we would like to take the opportunity to comment on several of the proposals put forth by the FCC in the recent NPRM.

III. Discussion

A. Management and Administration

1. Universal Service

a. Background

Response

"Under the Commission's rules, USAC is required to maintain its books of account in accordance with generally accepted accounting principles ("GAAP") and to account for the financial transactions of the USF in accordance with the government's generally accepted accounting principles ("GovGAAP"). PSTC believes that this is an acceptable accounting practice. We are gravely concerned about the consequences of the Federal Communications Commission's conclusion that at least some Universal Service programs are subject to the Anti-Deficiency Act ("ADA") (*31 U.S.C § 1341 et seq.*). The accounting changes were not intended to have any impact on the way in which USAC administers the program; however, the new

accounting rules would affect the issuance of new funding commitments.

In the past, USAC allocated funds to pay for services in the Schools and Libraries program at the time an invoice submitted by a service provider was approved for payment. Under the new accounting rules, the issuance of the Funding Commitment Decision Letter is the point at which an “obligation” occurs for Federal government accounting purposes. This is significant because under the new rules, USAC is required to have cash or federal securities on hand at least equal to the value of all its outstanding commitment letters. Until the decision to impose the ADA on USAC, it was only required to have money on hand when the vendor sent an invoice to USAC for actual payment. This has delayed the release of new commitment letters.

By making the USF subject to the ADA, the lines of federal funding become blurred. The USF was designed to be a slow spending program that maintains its funds outside the U.S. Treasury. It is our belief that E-Rate funds are not federal funds; the ADA is not applicable to the E-Rate program. The USF, including the Schools and Libraries Program, should be exempt from the ADA.

b. USF Administrative Structure

Response

Since the Commission appointed USAC as the permanent Administrator of the Schools and Libraries Program, the E-Rate program has gone through many changes, which has improved the program. By changing the permanent Administrator of the Schools and Libraries Program, a collective history of a program could be lost. Also the cost of transferring the program to another administrator would be substantial. The coalition would be the first to admit that the program is not perfect. USAC continues to have problems that plague the program. One issue can be traced to an absence of a clear and mutual understanding between USAC and FCC on decisions, implementation of rules, etc. Also, a revision in the structure might cause an unnecessary disruption to contributors and beneficiaries of the program. The PSTC believes that the E-Rate program is not a federal program. This program should be maintained outside the U.S. Government as a private entity. This private entity should not capitalize financially from working with schools and libraries.

While customer service and relations have improved with USAC over the years, there is still room for improvement. One suggestion would be to hire more educators or librarians as employees. The Coalition would like to recommend that the Administrator of the program, whoever that is, have a voice on the board.

2. Performance Measures

Response

The E-Rate provides \$2.25 billion in discounts annually for advanced, affordable telecommunications services, Internet access, and internal connections to public libraries and public and private schools. In the first seven years (1998-2004), \$14.6 billion in discounts have brought the Internet and new information technologies to tens of thousands of public and private schools and libraries, and to over a million classrooms.

The promise of the E-Rate is straightforward: to assure that all Americans, regardless of income or geography, can participate in and benefit from new information technologies, including distance learning, online assessment, web-based homework, enriched curriculum, increased communication between parents, students and their educators, and increased access to government services and information.

The E-Rate program is a technology program that must be measured and evaluated as one. This is not an education program, but a connectivity program. The E-Rate program was originally designed to evolve with technology. The program was never intended to be a one time investment, but a program that is specific to a locale and evolves in the same manner as the community. The goal of this program was to connect all classrooms and libraries to the Internet. At this time, there are still schools that have not been connected. The schools that are should also be evaluated on connectivity. It might be that one classroom is connected and that, in the opinion of this coalition, is not enough. All classrooms should be connected with current technologies.

By comparing the E-Rate program to the U.S. Department of Education's Enhancing Education Through Technology (EETT) program, one is literally comparing "apples to oranges". The EETT program is an appropriated education program that provides funds for innovative initiatives to support the integration of education technology into classrooms to improve teaching and learning. The E-Rate program provides the connectivity to the classroom. In the case of a private school, programs are offered through the LEA.

Direct funding does not go to the private school for this education program. Libraries are excluded from the program.

PSTC believes that the E-Rate program should measure connectivity. USAC and FCC lack statutory authority to measure outcome or performance of the users of the E-Rate program.

3. Program Management

a. Application Process

1. E-Rate

Response

We support the FCC's and USAC's initiative to streamline, shorten, combine, or eliminate forms in the application process. Many private schools do not have a technology faculty on staff. It would help a great deal to make the application process as streamlined as possible. We also agree with allowing a three-year contract for Priority 1 services. Again, we feel this will help streamline the application process. The PSTC also believes that by streamlining and simplifying the application process, forms will become more accurate and the submission of complete applications will increase.

The EdLiNC coalition believes that the three-bid minimum for competitive bidding, particularly for Priority 1 services is burdensome for small schools, many of which are members of the PSTC. This is particularly true for rural schools that may have only one major vendor in their area, thus burdening them with having to make extraordinary efforts to obtain enough bids to meet application requirements. Such a demand is unreasonable and impractical, particularly if they are imposed on Priority 1 services. Small schools, both rural and private, often find themselves at a disadvantage when soliciting competitive bids either because geographically there are not multiple providers and because small applicants are not attractive to many vendors who are seeking the more lucrative contacts from large school districts in more competitive markets.

B. Oversight of the USF

1. Independent Audits

Response

USAC and the Commission have conducted over 200 audits in which recovered approximately \$7.6 million for all violations. The recovery of \$4.5 million is subject to pending appeals. The Commission should give USAC the proper resources and tools to perform the audits to maintain program integrity. If more audits were to occur, they should do so at USAC's expense. The program beneficiaries are held accountable for the services they request, but by imposing an undue burden on them for the cost associated with an audit is unnecessary. Most beneficiaries are small, rural schools that participate in the E-Rate program. The cost of the independent audit would outweigh the benefit of the program.

Program audits should also be conducted with the rules and procedures that applied at the time of the application process. To hold beneficiaries responsible for future rulings and decisions is not practical or reasonable. Audits should also be available for view by applicants. This might decrease the number of errors in applications, if applicants could view mistakes that were being made.

The PSTC would like to applaud the Commission and USAC on the recognition of the difference between ministerial errors and fraud. Private schools do not always have technology faculty on staff and educators are trying to complete the applications to the best of their ability, yet sometimes ministerial mistakes are made.

Some schools and school districts, in accordance with state law must comply with the Single Audit Act. Unfortunately, most private schools do not participate in enough federal programs to reach that threshold of a audit. We believe the Single Audit Act should not be triggered when participating in the E-Rate program. We do believe that USAC and the Commission should continue their own audits and given the resources and tools to complete them in a timely manner.

3. Measures to Deter Waste, Fraud, and Abuse

Response

Capping the E-Rate program would not have an effect on deterring waste, fraud, and abuse. The requests for funds have historically exceeded the annual cap and by capping the amount a school can receive would impair the program further with more "hoops to jump through" and more applications needing to be processed.

We agree with the USAC Task Force that some type of "best practices" should be publicized for the E-Rate program. Templates and toll-free numbers explaining the application process would be a good start in

preventing waste, fraud, and abuse. This should not take away from the funding line that exists for the program or increase the cost of administering the program in any way.

The Coalition agrees with the FCC and USAC that obtaining three or more bids may be particularly difficult in rural areas. It is also impractical to do so for small projects or for Priority One telecommunications service, for all areas.

Thank you for this opportunity to comment and if you have any questions or concerns, please do not hesitate to contact any members of this private school coalition.

Sincerely,

Members of the Private School Technology Coalition (PSTC)

Agudath Israel, Abba Cohen

Association of Christian Schools International, John Holmes

Council for American Private Educators, Joe McTighe

National Catholic Education Association, Dale McDonald

National Association of Independent Schools, Amy Sechler

United States Conference of Catholic Bishops, Fr. William Davis